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10/027,160

12/20/2001

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EXAMINER

WEBB, GREGORY E

ART UNIT

PAPER NUMBER

1796

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DELIVERY MODE

05/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/027,160 | Applicant(s) ESTES ET AL. | |
| | Examiner Gregory E. Webb | Art Unit 1796 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 79-81 and 83-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 88 is/are allowed.
- 6) ☒ Claim(s) 79-81, 83-87 and 89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/22/08 have been fully considered but they are not persuasive.
2. The applicant's Declaration submitted 2/22/08 has been considered. However, the examiner does not find the declaration to be commensurate in scope with the instant claims.
3. The applicant's claims are directed to a composition containing a non-reactive, non-aqueous, non-oleophilic, apolar working fluid that is not-detersive and has a KB value of less than or equal to 30.
4. The examiner does not find support for this phrase in any of the documents submitted.
5. Although the exhibits discuss non-aqueous cleaning, they do not discuss the other properties required by the instant claims. The exhibits discuss literally hundred of solvents with no indication of which meet the limitations now required by the instant claims. Although the applicant discusses the 3M fluoroinert compound, the applicant does not describe the claimed properties are the reason for the performance.
6. Furthermore, the applicant's exhibit does not provide the necessary definitions of the terms "non-reactive" and "non-detersive" for the examiner or the public to determine what compounds fall within this group. One would not know what compounds meet these limitations without the definitions supplied by the applicant's instant specification.

7. Finally the applicant's affidavit fails to demonstrate a single dry cleaning composition which contains a fragrance. As the applicant has argued this to be a key feature, the applicant's affidavit clearly does not support this instant invention.

8. Therefore, the applicant's affidavits are not commensurate in scope with the instant claims and their limitations.

9. Previous 112 rejections are withdrawn based on the amendments to the instant claims.

10. The applicant argues that perfumes are not used in non-aqueous wash liquours prior to the instant invention. This is clearly not true as much of the patent literature and detergent literature suggests the use of perfumes in dry-cleaning.

11. For example, Potter et al (US 3,630,935), circa 1971, teaches the following:

12. "This composition exhibits a highly desirable single-phase characteristic and generally achieves high levels of fabric cleaning with reduced levels of fabric 35 graying. Optionally, the compositions herein can additionally contain one or more of a variety of other fabric treating agents which are soluble in the **dry cleaning** solvent. Examples of such agents which are especially desirable for 40 inclusion herein are, e.g., brighteners (which can be non-ionic or cationic and, preferably, are of the anionic stilbene-derivative types), **perfumes**, antistatic agents, fabric softening agents, and germicides, Generally, the amounts of such agents (e.g., brighteners and

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perfumes) employed herein are quite small and range from about 0.01% to 45 about 3% by weight of a concentrated level composition herein and from about 0.000 1 % to about 0.03 % by weight of a use level composition herein"

13. And finally the examiner maintains that the previously submitted declaration is not commensurate in scope with the instant claims. As stated previous the examiner does not find support for each and every property now found in the instant claims.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 79-81 and 83-87, and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al (US 5,962,390) in view of Smith et al (US 5,238,587).

2. Flynn et al teach a variety of solvents suitable for dry cleaning applications such as those found in the instant application.

3. Flynn includes in this list of solvents including the applicant's claimed "working fluid." For example Flynn teaches the use of the fluoroether C₄F₉OCH₃, also known as HFE-7100, a well-known fluid produced by Minnesota Mining and Manufacturing company, the assignee for the Flynn reference.

4. Flynn fails to teach the applicant's claimed perfume.

5. Smith et al (US 5,238,587) teaches a home dry cleaning kit which also contains an ether-based formulations such as those discussed in Flynn (see title and col. 5).

6. Smith et al further teach the routine inclusion of perfumes in their dry cleaning composition (see cols. 8-9). Smith specifically states the benefit of such fragrances and states that the inclusion of such compounds will function as an insect repellent.

Thus it would have been obvious based on the teachings of Flynn in view of Smith to include a perfume in an ether-based dry cleaning composition as such additions will as taught by Smith repel insects. It is also noted that Smith teaches cosolvents such as ethers. Concerning the oil solvency as the working fluids are identical they would inherently have identical properties.

Claims 79-81 and 83-87, and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al (US 5,962,390) in view of Broze et al (US 4,786,431 A).

Flynn is relied upon for those reasons set forth above.

Broze teaches non-aqueous detergent compositions for laundering textiles (see abstract). Broze teaches the use of various additives which can be included to improve the "aesthetic nature." (see col. 15, lines 22-48). Included in this brief list of compounds are perfumes.

As Broze teaches perfumes improves the aesthetic nature of the non-aqueous laundering compositions, it would have been obvious to add a perfume to compositions of Flynn as it is well-known, and taught by Broze, that perfumes improve the aesthetics

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of non-aqueous laundering compositions. Broze teaches the addition of various surfactants including those that are ethers as required by new claim 89.

Claims 79-81 and 83-87, and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al (US 5,962,390) in view of Mizutani et al (US 4,102,824 A). Flynn is relied upon for those reasons set forth above.

Mizutani teaches non-aqueous detergent compositions for laundering textiles (see title). Mizutani teaches the use of perfumes as conventional ingredients in these non-aqueous compositions (see col. 3, lines 50-60).

As Mizutani teaches perfumes as conventional ingredients in non-aqueous laundering detergents, it would have been obvious to one skilled in the art of laundering to include a perfume in a non-aqueous detergent used for laundering.

Concerning claim 89, Mizutani teaches the addition of various components including ester based surfactants (see table 2).

Allowable Subject Matter

Claim 88 is allowed. The prior art fails to teach or suggest the applicant's claimed fluorine containing compound in combination with the fragrance.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory E. Webb whose telephone number is 571-272-1325. The examiner can normally be reached on 9:00-17:30 (m-f).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory E. Webb/
Primary Examiner, Art Unit 1796

Gregory E. Webb
Primary Examiner
Art Unit 1796

gew